

REMARKS

Claims 1-4, 7, 8, 10-32, 39, 40 and 46-51 are pending. Claims 46 and 50 stand withdrawn from further consideration as being directed to a non-elected invention. Claim 51 is hereby added.

Claims 1-4, 7, 8, 10-32, 39, 40 and 47-49 were rejected under 35 USC §112, first paragraph. The Examiner argues that the specification does not provide support for the limitation "cell distribution such that at least 80% of the cells, in the absence of stretching, a size ranging from 20 to 400 μm ." Although the prior response pointed out Examples 1 and 10 as providing support, the Examiner argues "the lower end point of the recited cell range in claim 1 is incommensurate with the lower end points in any these examples."

Original claim 1 stated 80% of the cells have a size range from 20 to 400 μm . The claims subsequently were amended to specify "at least." Examples 1 and 10 do provide support because in Example 1, 100% of the cells have a cell dimension falling within the size range set forth in claim 1. Example 10 provides similar support in that the size falls within the size range from 20 to 400 μm stated in claim 1. Example 10 has a cell dimension lying between 35 and 188 μm . Since 100% of the cells have a dimension falling within the range of 20 to 400 μm , these Examples support the recitation "at least 80% of the cells have a size range from 20 to 400 μm ." Therefore, Applicants do not understand the Examiner's statement concerning the lower end points set forth in the Examples as not being commensurate in scope with the claims. That is, the Examples support the recitation of "at least".

In regard to claims 2 and 3, the size ranges are also supported by Examples 1 and 10. Claim 2 sets forth a size ranging from 25 to 300 μm which fully encompasses the range of Example 1 of 40 to 170 μm and the range of Example 10 lying between 35 and 188 μm . Similarly, the range of 30 to 200 μm set forth in claim 3 is also supported by the size ranges set forth in Examples 1 and 10.

The Examiner also continues to argue that the amylose contents are deemed new matter because “Starch Chemistry and Technology” was not incorporated into the specification by reference. However, these are inherent properties to the specific starches disclosed in the specification. Therefore, such contents are not new matter.

Claims 1-4, 7, 8, 10-32, 39 and 40 were rejected under 35 USC §103(a) as being unpatentable over Altieri. The Examiner has maintained the same position. This rejection is again respectfully traversed.

The Examiner attempts to explain why “at least” is not supported by the originally filed specification. However, since 100% of the cell dimension lies within the broader range of 20 to 400 μm , such would literally meet the language of the claim. At least 80% means 80% or more. 100% is more than 80%. Furthermore, the cell sizes lying within the range of 20 to 400 μm would still meet the claim language.

In regard to the amylose contents, the Examiner argues that different species of plants may produce various levels of amylose. In spite of providing published literature of amylose contents of the specific claimed starches, the Examiner maintains that applicants have provided

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no evidence to convey that the inventors had procession of the claimed invention. It is respectfully submitted that the Examiner has not refuted the evidence provided by Starch Chemistry and Technology that the claimed starches would possess amylose contents different from that recited in the claims.

In regard to the art rejections, the Examiner again relies upon the disclosure of Altieri at column 4, lines 18-23. However, again the Examiner has taken this teaching out of context with the entire teachings of Altieri. More specifically, Altieri teaches at column 4, lines 4-8, that the starting starch material useful in its invention must be a high amylose starch, i.e., one containing at least 45% by weight of amylose.

New claim 51 is added which specifies the nature of the thermoplastic polymer which is used, namely that the thermoplastic polymer comprises polyester derived from di-functional acids and aliphatic diols or aliphatic-aromatic polyesters. Claim 14 sets forth such materials. Altieri does not suggest the use of polyester derived from di-functional acids and aliphatic diols or aliphatic-aromatic polyesters. Accordingly, new claim 51 clearly distinguishes over Altieri.

For at least the foregoing reasons, it is respectfully submitted that all pending claims define patentable subject matter under 37 U.S.C. §112, and distinguish over Altieri. Favorable reconsideration is earnestly solicited.

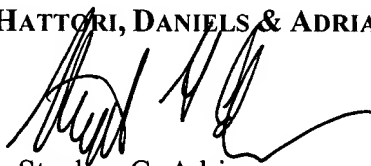
Should the Examiner deem that any further action by applicants would be desirable to place the application in condition for allowance, the Examiner is encouraged to telephone applicants' undersigned attorney.

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If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Stephen G. Adrian', is written over the firm name.

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